

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

WESTERN NEVADA SUPPLY COMPANY PROFIT-) 3:09-CV-00737-ECR-VPC
SHARING PLAN AND TRUST, a tax qualified) MINUTES OF THE COURT
retirement plan established for eligible) DATE: November 22, 2010
employees of Western Nevada Supply)
Company, Inc., a Nevada corporation;)
WESTERN NEVADA SUPPLY COMPANY 401(k))
PLAN, a tax qualified retirement plan)
established for eligible employees of)
Western Nevada Supply Company, Inc., a)
Nevada corporation; JACK T. REVIGLIO)
and RICHARD J. REVIGLIO, individually)
and as Co-Trustees of the Western Nevada)
Supply Company Profit-Sharing Plan and)
Trust,)
Plaintiffs,)
vs.)
ANEESARD MGMT., LLC, a Nevada limited)
liability company; DRASEENA FUNDS GROUP,) CORP., an Illinois corporation; THREE)
OAKS SENIOR STRENGTH FUND, LLC, a)
Nevada limited liability company; US)
FIRST FUND, LLC, a Nevada limited)
liability company; KENZIE FINANCIAL)
MANAGEMENT, INC., a United States)
Virgin Islands corporation; DN)
MANAGEMENT COMPANY, LLC, a Nevada)
limited liability company; DANIEL H.)
SPITZER; BARRY DOWNS; and WALTER J.)
SALVADORE, JR.,)
Defendants.)

PRESENT: EDWARD C. REED, JR. U. S. DISTRICT JUDGE

Deputy Clerk: COLLEEN LARSEN Reporter: NONE APPEARING

Counsel for Plaintiff(s) NONE APPEARING

Counsel for Defendant(s) NONE APPEARING

MINUTE ORDER IN CHAMBERS

Now pending is a motion to dismiss (#25) filed on behalf of Defendants Aneesard Mgmt., LLC, Draseena Funds Group, Corp., Three Oaks Senior

Strength Fund, LLC, US First Fund, LLC, Kenzie Financial Management, Inc., DN Management Company, LLC, Daniel H. Spitzer and Barry Downs.

On May 27, 2010, attorney for the eight above-named Defendants filed a motion to withdraw as attorney (#47) for all Defendants except for Barry Downs. On June 14, 2010, the motion to withdraw as attorney (#47) was granted (#59) as to all Defendants except for Barry Downs. Magistrate Judge Valerie P. Cooke ordered (#47) Defendants Aneesard Mgmt., LLC, Draseena Funds Group, Corp., Three Oaks Senior Strength Fund, LLC, US First Fund, LLC, Kenzie Financial Management, Inc., DN Management Company, LLC, and Daniel H. Spitzer to substitute new counsel no later than July 14, 2010. Defendants failed to comply, and Magistrate Judge Cooke further ordered (#76) that Defendant Daniel H. Spitzer may represent himself *pro se* but the six legal entity defendants named above must be represented by counsel as required by law. Defendants were warned (#76) that a failure to respond within thirty-three (33) days shall be grounds for entry of default and a default judgment against them. Defendants again failed to comply, and the Clerk entered default (#81) against the seven Defendants. Now pending is a motion for default judgment (#83) against select Defendants, which we will address at a later time.

In view of the default entered against said Defendants, the motion to dismiss (#25) is **DENIED** without prejudice with respect to Defendants Aneesard Mgmt., LLC, Draseena Funds Group, Corp., Three Oaks Senior Strength Fund, LLC, US First Fund, LLC, Kenzie Financial Management, Inc., DN Management Company, LLC, and Daniel H. Spitzer. No ruling is made with respect to Defendant Barry Downs.

IT IS, THEREFORE, HEREBY ORDERED that Plaintiffs and Defendant Barry Downs shall within twenty-eight (28) days from the date of entry of this order, submit contemporaneous supplemental points and authorities regarding which claims in the complaint (#1) and motion to dismiss (#25) are relevant to Plaintiffs and Barry Downs. The parties may also address any additional issues of the liability of Barry Downs which may be relevant to the motion to dismiss (#25). Thereafter, the parties shall have fourteen (14) days to file responsive points and authorities to those filed by the opposing party.

In the alternative, Plaintiffs may file an amended complaint within fourteen (14) days from the date of entry of this order.

LANCE S. WILSON, CLERK

By _____ /s/
Deputy Clerk